REMARKS

Claims 1-20 are pending in the present application. Reconsideration is respectfully requested for the following reasons.

Applicant would like to thank the Examiner for taking the time for a telephone interview on April 24, 2006, wherein the rejection of claims 1-20 under 35 U.S.C. §112, first paragraph, was discussed. The substance of that discussion is incorporated below.

Claims 1-20 have been rejected under 35 U.S.C. §112, first paragraph, as, according to the Office Action, being based on a disclosure which is not enabling. According to the Office Action:

> How to "determining a tractive force request", how to "determining an actual tractive force" (limitations of claim 1), "how to modeling the actual tractive force" (an extra limitation of claims 6, 13, 16-19 - merely input "at least" a temperature or a number from a Look-Up-Table is not "modeling") are critical/essential to the practice of the invention, but not included in above claims are not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

However, Applicants submit that all pending claims 1-20 are fully enabled.

As an initial matter, Applicants note that the enablement rejection as set forth in the Office Action is very confusing and Applicants are not sure why the Office Action is actually rejecting the claims as not being enabling. First, the Office Action cites the case of *In re Mayhew* for support for stating that the claims are not enabled. The *In re Mayhew* case is discussed in §2164.08 of the MPEP. This section of the MPEP and the *In re Mayhew* case are drawn to the situation where a specification teaches that a feature is critical, but such a feature is not recited in the claims. During the telephone interview, the Examiner stated that the specification did not include any critical feature that was not in the claims and Applicants submit that there is no such critical feature. Accordingly, it appears that the citation to the *In re Mayhew* case is inappropriate and the claims should not be rejected as set forth in MPEP §2164.08.

Second, Applicants submit that all of the claims are fully enabled in the present application. As set forth in MPEP §2164.01, the test of enablement is whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent application,

coupled with information known in the art without undue experimentation. According to MPEP §2164.04, "the Examiner has the initial burden to establish a reasonable basis to question the enablement provided by the claimed invention." Furthermore, "the minimal requirement is for the Examiner to give reasons for uncertainty of the enablement." Applicants submit that the Office Action has not set forth a proper enablement rejection. Nevertheless, the present application is fully enabled.

The Office Action appears to set forth three elements of the claims that are not enabled by the specification, namely, determining a tractive force request, determining an actual tractive force, and modeling the actual tractive force. However, an example of determining a tractive force request of a driver of a vehicle is clearly enabled by the specification of the present application in paragraphs 11-16. These paragraphs of the present application clearly provide one method of direction to one reasonably skilled in the art to enable one to determine the actual tractive force request of a driver of a vehicle. Likewise, examples of determining an actual tractive force of the vehicle and modeling the actual tractive force are clearly enabled by paragraph 17 of the present application. Furthermore, paragraph 17 of the present application states that the method of modeling the actual tractive force as used in the present application is well known to those skilled in the art. The Office Action has not refuted this statement and has not provided any evidence to refute this statement. Accordingly, the present application is fully enabled under 35 U.S.C. §112, first paragraph.

In the section of the Office Action rejecting the claims as not being enabled, claims 9-12 and 16-20 are referenced for including phrases that do not further limit the rest of the claims. Applicants disagree with this statement. Nevertheless, even if these phrases "just further define the 'available tractive force'" as set forth in the Office Action, such phrases do not make the claims non-enabled. Accordingly, Applicants are unsure of the references to these claims in the Office Action and requests clarification.

The claims have also been objected to because, according to the Office Action, claims 13-15 are substantial duplicates of claims 1-5 and 8. First, since this is a provisional objection, Applicants submit that no action by Applicants is required at this time. Nevertheless, Applicants submit that claims 13-15 are not substantial duplicates to 1-5 and 8. Notably, the

Office Action states that three claims are substantially duplicate to six claims. Applicants are unsure how this could be, as a substantial duplicate of a claim must be on a one-to-one basis. Nevertheless, claim 13 includes modeling an actual tractive force of a vehicle, which is not found in claim 1 or claim 2. Furthermore, claim 13 includes measuring an actual speed of a vehicle, sensing a position of acceleration pedal, and looking up a tractive force request on a map corresponding to the actual speed and the position of the acceleration pedal, which is not found in claims 1, 3-5 and 8. Accordingly, claims 13-15 are not substantial duplicates of claims 1-5 and 8.

All pending claims 1-20 are believed to be in condition for allowance, and a Notice of Allowability is therefore earnestly solicited.

Respectfully submitted,

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Date

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